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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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The meeting was called to order at 10.15 a.m.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF FINLAND

1. The CHAIRMAN invited the Minister for Foreign Affairs of Finland to address the Commission.

2. Mr. HAAVISTO (Finland) said that at the 1993 World Conference on Human Rights, his country had had two basic goals: the strengthening of human rights principles, instruments and mechanisms and agreement on a forward-looking, action-oriented programme of work. The Conference had been a success, marking a shift in the discussion of human rights at the international level and creating a new atmosphere which had already produced noteworthy results.

3. The post of High Commissioner for Human Rights was a symbol of the increased concern for human rights by the international community. Expectations for his role ran high and the sensitive nature of the work clearly required a combination of personal courage and diplomatic skill. The High Commissioner was there not to increase bureaucracy but to engage actively in dialogue, to assist all countries in their human rights problems and to promote global respect for human rights.

4. The Commission should set an example at its current session by integrating the follow-up of the Vienna Conference into its own work and setting in motion the integration of the human rights dimension system-wide into United Nations activities.

5. That was also a fundamental task for the High Commissioner. The global protection and promotion of human rights could not be carried out in isolation. However, he doubted whether the integrated approach was understood and supported by Governments, international organizations and non-governmental organizations (NGOs). Members of the Commission had seen so far only the first attempts to explore the question in the United Nations. Some regional organizations, such as the Conference on Security and Cooperation in Europe and the Council of Europe, and certain non-governmental organizations, had advanced much further in their deliberations. The United Nations as the world organization should take the lead. The integrated approach would eventually require the formulation of a joint strategy for human rights, development, democracy and security and the United Nations was the proper forum for creating that synthesis.

6. Security was not just a matter of weapons: it was also a matter of social and economic concerns and human dignity. Respect for human rights, pluralistic democracy, rule of law and tolerance were crucial components of a wider concept of security. However, they were but words in many parts of the world where massive violations of human rights were everyday events. Human security meant little to the oppressed and tortured people in Bosnia. He wondered whether the occurrences of new forms of racism, xenophobia and intolerance might not be the first signs of more serious conflicts and asked what should be done to defuse ethnic, religious and racial problems before

they descended into ethnic cleansing and genocide. Strengthening the rules of humanitarian law applicable to all situations concerning internal disturbances and conflicts needed to be stressed. Minimum humanitarian standards must be respected by all parties to a conflict.

7. In its deepest sense conflict prevention meant attacking the root causes of conflict, including violations of human rights. Preventive diplomacy with early warning and fact-finding mechanisms, should target economic and social conditions and trends along with political indicators.

8. Poverty and conflicts were a threat to progress and security. Sustainable development was crucial for stable and peaceful relations both inside and between countries. Human rights and development were interdependent. As the basis for a democratic society, human rights placed the human being in the centre of the development process. The Working Group on the Right to Development set up by the Commission was in a key position to contemplate measures to be taken to promote that right further.

9. The Vienna Conference had emphasized the full and equal enjoyment by women of all human rights as a priority for Governments and for the United Nations but much remained to be done to ensure that women mattered in human rights activities. His own country was actively engaged in work on the equality of women and men. The United Nations Declaration on the Elimination of Violence against Women was a milestone and the appointment of a special rapporteur on violence against women would be a natural consequence thereof.

10. The effective establishment of democracy was the basis for ensuring the protection of minorities. There was a need to develop new approaches for the protection of minorities, and the United Nations, as well as national Governments, should focus increased attention on those problems, with particular reference to the full implementation of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic Religious and Linguistic Minorities.

11. The human rights of indigenous peoples continued to be a cause for concern and completion of the drafting of the declaration on the rights of indigenous peoples should be a priority task of the Commission. The establishment of a permanent forum for indigenous peoples also deserved the Commission's attention.

12. The implementation of the Vienna Declaration and Programme of Action required appropriate support by the entire United Nations human rights machinery. That concerned existing mechanisms, in particular the Centre for Human Rights. There was a need to ensure increased resources for such mechanisms, primarily through reallocations in the regular United Nations budget. In that connection, however, it should not be forgotten that voluntary contributions depended upon the performance of the mechanisms.

13. It was imperative to review the work of decision-making bodies in the human rights field. The Commission was in a key position and should launch a comprehensive review of its own work. Evaluation and review should not remain a sporadic exercise but rather be an ongoing and evolving process. He hoped that the current session would have the courage and wisdom to embark on that joint effort.

14. While the year 1993 would unfortunately be remembered for the gross violations of basic human rights that had occurred, he was confident that it would also be remembered as a turning point in the human rights dialogue, a new attempt at the universal ratification of human rights treaties and a new understanding of the need for the further promotion and protection of human rights, both nationally and internationally.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (item 4 of the provisional agenda) (continued) (E/CN.4/1994/9, 12-14 and 98; A/48/96, 278 and 557)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (item 9 of the provisional agenda) (E/CN.4/1994/22 and 23; A/48/385)

15. Mr. FELBER (Special Rapporteur), introducing his report on the human rights situation in the Palestinian territories occupied since 1967 (E/CN.4/1994/14), said that peace and independence remained the best guarantees of human rights and that any occupation regime whatsoever could not but lead to conflicts and restrictions on individual liberties. That consideration naturally led the Commission to favour the peace process that had begun in the Middle East between Israel and the Palestine Liberation Organization. Neighbours were fated to live together and must therefore establish peace among themselves.

16. The positive welcome given the Declaration of Principles of 13 September 1993 should not lead members to neglect the obstacles that would arise on the road to peace until a stable and definitive political situation was obtained in the Middle East.

17. During his brief visit to the region, he had been able to note the existence of a deep desire for peace but also the thickness of the wall of distrust that separated Israelis and Palestinians. In that connection, he stressed that the peace established between the leaders must become peace between the peoples involved.

18. There was no doubt that the inhabitants of Jericho and those of the Gaza Strip would recover their dignity as citizens in a system of self-government but that should not lead the Commission to forget those Palestinians who would not benefit from such a system. They should not have the feeling that they had been abandoned.

19. In the territories that became self-governing, it was clear that the human rights situation would not be restored immediately and that the local organizations would have to work to ensure respect for the values defended by the Commission.

20. His brief stay in Israel and the territories had not enabled him to make a complete analysis of any of the many problems that had been brought to his attention. However, he had been able to measure the degree of fatigue of local officials of Palestinian non-governmental organizations and of the population in general. The main subjects of concern were highlighted in his report.

21. He was fully convinced that a positive development in the human rights situation would facilitate a political solution in the entire Middle East and that Israel, a democratic State, would be able to play a role of rebuilder. He considered his mandate to be that of a person in the service of a cause which was recognized by the two parties to the conflict and that should result in substantial and definitive improvements not least within a peace process.

22. Mr. BERNALES BALLESTEROS (Special Rapporteur), introducing his report on the question of mercenaries (E/CN.4/1994/23), said that he had placed particular emphasis on developments in or prior to 1993, the negative effects of which continued to be felt. He recalled that, in its resolution 1993/48, the Commission had requested all special rapporteurs and working groups to continue paying particular attention in their reports to the adverse effect on the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers.

23. It was universally acknowledged that mercenary activities constituted punishable acts; the current debate concerned the scope and content of such activities. United Nations efforts had been directed at overall suppression and, in that context, an increasing number of Member States had defined mercenary activities as serious punishable offences within their domestic legislation, which was an important achievement. In the same spirit, in order to afford better protection of the sovereignty and security of peoples, it was essential to speed up the ratification of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries so that it could enter into force as rapidly as possible.

24. Unfortunately, the theoretical and legislative advances had not made mankind safe from mercenary activities. In fact, during his 1993 investigations, he had been informed of various criminal activities carried out by mercenaries in Africa and elsewhere, all of which had an effect on human rights and fundamental freedoms. Such information had, for the most part, come from those directly affected, whose reports were filed with the Centre for Human Rights. Additional information had come from the international press. In each case, he had verified the accuracy of the information.

25. One theory held that mercenary activity was sustained by the ongoing armed conflicts in certain African countries and by the emergence of new armed conflicts, arising from the creation of new States and the current climate of serious ethnic, religious and nationalist rivalries. Indeed, the participation of foreign mercenaries appeared to be one of the factors which contributed to the worsening of certain of those conflicts.

26. The most important element in defining a mercenary act was, naturally, to identify the agent directly responsible. However, it was important not to overlook the possibility that third parties might be responsible for inciting mercenaries to engage in illegal acts, including subversive activities.

27. He was convinced that Member States must carefully monitor mercenary activities and take action to prohibit them expressly. In particular, Governments should impose severe penalties on any organization whose operations resulted in the use of mercenaries or any covert operations which, directly or through a third party, were involved in the recruitment of mercenaries.

28. Vigilance was also needed to identify agents involved in mercenary activity. Mercenaries often had access to sophisticated legal procedures for concealing or changing their identities, which allowed them to claim to be nationals of a particular country and thus serve in its armed forces. At the same time, the actual status of suspected mercenaries could sometimes be traced through a series of clues including the country which provided the contract, type of services involved, wages and the simultaneous use of several passports. One example of the complexity of the situation was that of an individual legally entitled to dual nationality, who committed an offence in one of the countries of which he was a national, at the behest of the other country of which he was a national.

29. He drew the Commission's attention to General Assembly resolution 48/92, which requested the Centre for Human Rights to organize, within the framework of its existing resources, working meetings to analyse various aspects of the question, in the light of the recommendations contained in his reports.

30. In 1993, Africa was still the continent which suffered most from mercenary aggression, where the mercenary was defined as a professional soldier. Most of those mercenaries were white. He wished, in particular, to draw attention to the situation in Angola, where internal armed conflict had continued throughout 1993 after UNITA had breached its commitments under the peace agreements signed on 31 May 1991. Once again, there was evidence of mercenary involvement in training and combat operations. According to government sources, most of those mercenaries were of South African and Zairian origin. There were also reports that former members of South Africa's 31st and 32nd Battalion recruited as security guards for Angolan oil refineries and installations, had fought alongside UNITA forces. Their recruitment was attributed to a South African company, Executive Outcomes.

31. Members of the South African special élite forces and former members of the South African intelligence services were also receiving offers to fight in Angola as mercenaries. Thus, while there seemed to be new prospects for political negotiation that would put the peace agreements back into effect,

the Commission, in any resolution on the subject, should also give full support to the validity of the Angolan peace agreements and to measures for the elimination of mercenaries from the country.

32. As a result of its policy of apartheid, South Africa had used mercenaries both inside and outside its territory. The considerable progress achieved in dismantling apartheid, adopting a provisional constitution, and steering South Africa towards a pluralistic democracy had won the support of the international community. However, the existence of violent groups which resorted to criminal practices and the use of mercenaries in order to obstruct the dismantling of apartheid should not be overlooked. In that connection, he referred to the assassination of Chris Hani, a member of the African National Congress (ANC) National Executive, on 10 April 1993 at the hands of a mercenary.

33. The Afrikaner Volksfront and the Afrikaner Weerstandsbeweging had armed units, claimed a pretended right to self-determination and threatened to use extreme violence to create an exclusive State for the white minority. Support for democratization in South Africa must also be accompanied by an awareness and condemnation of such racist groups which used violence and mercenaries to impede the process.

34. For the second consecutive year, he had received reports, some of them from the States participating in the conflict themselves, of the presence of foreign mercenaries in the former Federal Republic of Yugoslavia. Those reports contained detailed accounts of serious human rights violations, whose chief victims were the populations of Bosnia and Herzegovina but also persons and national groups in Croatia and Serbia. Reports, investigations and interviews left no room for doubt as to the presence of mercenaries; the only remaining question was how many of them there were. As the presence of mercenaries had clearly aggravated acts of brutality and cruelty in the former Yugoslavia, all recommendations by the Commission in that regard should expressly condemn the recruitment and use of mercenaries by any of the parties to the conflict and appeal for an end to that criminal practice. The Commission should also recommend to the International Tribunal for the prosecution of serious violations of international humanitarian law in the territory of the former Yugoslavia that mercenarism should be regarded as an aggravating factor.

35. The report also contained information on armed conflicts which had broken out between States formerly part of the Soviet Union. Paragraphs 72 and 73 gave a full account of the conflicts taking place between Armenia and Azerbaijan (Nagorny-Karabakh), and in Georgia, Moldova and Tajikistan. In every case, the parties had referred to the presence of foreign mercenaries who were usually nationals of other States that had formerly been part of the Soviet Union.

36. The investigation of the cases within his mandate was not closed and he hoped that, with the cooperation of the authorities of each State and input from international sources and field inquiries, he would be able to provide the Commission with more detailed information leading to a definition of the typical mercenary.

37. He had reviewed the reports submitted by States, international organizations and non-governmental organizations (NGOs) in connection with the adverse consequences for the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers. In 1993, populations in various countries had suffered severely as a result of the illegal and criminal activities of such groups, which had had profoundly adverse effects on the enjoyment of human rights. In that connection, the precedent set by the Commission since 1990 was extremely important and should be reiterated at its fiftieth session. Such activities should be condemned in even stronger terms and more effective action should be recommended at the national and international levels against armed groups that spread terror and against drug traffickers.

38. Mr. JIN Yongjian (China) said that the statement by the Chairman of the Executive Committee of the Palestine Liberation Organization, would guide the Commission's deliberations under its agenda item 4. The past year had witnessed considerable changes on the international scene: turmoil and the outbreak of fresh armed conflict in certain parts of the world but positive developments in the Middle East with the mutual recognition of the PLO and Israel and the signing of an agreement on Palestinian self-rule in the Gaza Strip and Jericho area. His delegation welcomed and supported those initiatives by both the Palestinian and Israeli leaders. The signing of the Declaration of Principles on Interim Self-Government Arrangements, however, was not sufficient to settle the Middle East question, nor had it led to the Palestinian people's full realization of its political, civil, economic, social and cultural rights and its right to self-determination.

39. Noting certain stumbling blocks in the peace process over self-rule in the Gaza Strip and Jericho area, he said that both sides should respect the Declaration, exercise restraint and do their utmost to avoid violent conflict, which was still occurring in the region.

40. The Chinese Government and people had always supported the Palestinian people in its brave struggle and had actively sought a solution to the Palestinian question. His delegation was keenly interested in developments in the Middle East and supported both PLO and Israeli efforts to settle their conflicts through peaceful negotiations. China had actively participated in the work of five working groups of the Peace Conference on the Middle East and had hosted the fourth meeting of the multilateral working group on water resources in the Middle East in Beijing in October 1993.

41. It had always taken the position that a political solution should be based on the relevant resolutions of the United Nations, and particularly of the Security Council, and that the occupied Arab territories must be returned. It also believed that the sovereignty and security of all the countries in the Middle East, including Israel, must be respected. China would join in the international effort to advance the Middle East peace process and, to the best of its abilities, would support and assist the Palestinian people in rebuilding its homeland.

42. Mr. SAHLOOL (Sudan) said that his delegation had carefully studied the reports of the Special Committee to Investigate Israeli practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories and those of various human rights organizations such as the International Committee of the Red Cross (ICRC) and Amnesty International. All those reports contained accounts of flagrant human rights violations, including the shooting of Palestinian civilians by Israeli settlers, the imposition of restrictive economic measures, the destruction of houses, the imposition of collective sanctions and arbitrary arrests and other crimes and forms of torture that were contrary to the provisions of the Universal Declaration of Human Rights, the Geneva Convention on the Protection of Civilians in Time of War (Fourth Geneva Convention) and Protocol I additional thereto, and the principles of international and humanitarian law in general.

43. Israel's practices in the occupied Arab territories clearly reflected its disregard for the resolutions of the Security Council, the General Assembly and the Commission. That attitude was documented in the Special Committee's reports of 16 April 1993 (A/48/96) and 10 August 1993 (A/48/278). Israel was thus continuing those practices although it had signed a Declaration of Principles under which human rights violations should have ended with the total withdrawal of its forces from the occupied territories. As usual, however, Israel had distorted the terms of the Declaration and was implementing it as it saw fit.

44. The Israeli/PLO negotiations at Tabah and Mr. Arafat's statement to the Commission the previous day exposed Israel's distortion of the peace process. Its tardiness in implementing the Declaration of Principles revealed its political agenda designed to divide the Palestinian leadership and to mislead the international community. The Commission was duty-bound to ensure that Israel ceased all forms of human rights violations and withdrew its forces from all the occupied Palestinian territories, including Jerusalem, in accordance with United Nations resolutions and the Declaration of Principles signed in Washington. The Western nations, which had welcomed the signature of that Declaration, had been witness to Israel's manipulation of the timetable for withdrawing its troops from the Gaza Strip and the Jericho area.

45. The international community should attempt to persuade Israel to recognize the right of the Palestinian people to self-determination and to the creation of an independent State pursuant to the resolutions of the General Assembly, the Security Council and the Commission. The occupation of Arab territories by Israel and its arbitrary human rights violations in those territories represented the main obstacle to the achievement of a just and lasting peace in the Middle East.

46. The summit meeting between United States President Clinton and Syrian President Assad constituted a bold step in the peace process. Israel, however, was displaying a new form of intransigence by continuing to establish settlements in the Golan Heights and seeking a referendum on self-determination in territories which were an integral part of Syria. His delegation welcomed Syria's insistence on total Israeli withdrawal from all occupied Arab territories. It also supported Lebanon's insistence on Israeli withdrawal from occupied southern Lebanon and on resolution 509 (1982). His delegation urged the international community, through the Commission, to

prevail upon Israel to implement all resolutions adopted in that connection and to cease its human rights violations in South Lebanon, including the arbitrary detention of civilians, the destruction of houses and the confiscation of property.

47. The Commission should urge Israel to respect the 1949 Geneva Conventions, particularly the Fourth Convention, to release all Lebanese prisoners from its prisons and detention centres, and to facilitate the humanitarian work of international organizations in that area. It hoped that the Western countries, particularly those that had relations with Israel, would convince it to cooperate; otherwise, they might well be accused of applying a double standard.

48. Mr. VERGNE SABOIA (Brazil) said that his country had always considered the principle of self-determination to be a fundamental prerequisite for international peace and justice and, consequently, it had always supported the struggles of peoples under colonial or other types of foreign domination. In that spirit, Brazil had long advocated a comprehensive solution to the Israeli-Palestinian dispute, based on Security Council resolutions 242 (1967) and 338 (1973), which called for Israel to withdraw from the occupied Arab territories and to respect the right of all peoples of the region to live within secure and internationally recognized borders.

49. The agreement between Israel and the Palestine Liberation Organization was an historic achievement which deserved the international community's unqualified endorsement. The conflict in the Middle East had not only given rise to human rights violations but had also been a threat to world peace. Compliance with international human rights standards was crucial so that the foundations for a just and lasting peace could be laid during the transition period. The Commission should continue to play its role in monitoring such compliance.

50. His Government remained gravely concerned at the acts of violence committed by those trying to abort the still-fragile peace process. It urged all parties to respect the principles of democracy and abide by the decision of the majority, who embraced the ideas of peace and good neighbourliness. Reaching agreement on the basic issues of what had been a long and bitter dispute would be a difficult process requiring patience, flexibility, tolerance and determination. The international community must do its best to help in that effort. In that connection, it was clear that the experience of self-rule by the Palestinians in Jericho and the Gaza Strip would provide the peaceful and democratic framework for the further accords that were needed.

51. Recent developments had demonstrated that self-determination was an increasingly complex and sensitive issue, especially when it involved ethnic conflicts and the problems of minority groups. Ill-conceived and exaggerated interpretations of the right to self-determination were, in certain cases, being used to justify or encourage separatist demands and acts of aggression by groups whose sole claim to political independence was membership of an ethnic group. The Secretary-General had warned that, if every minority group were to claim statehood, there would be no limit to fragmentation, and universal peace, security and economic well-being would become increasingly difficult to achieve.

52. The Vienna Declaration and Programme of Action had rightly emphasized the relationship between the right to self-determination, as set forth in the International Covenants on Human Rights, and the principle of self-determination, as defined in the relevant General Assembly resolutions, namely, that the right to self-determination could not authorize or encourage any action which would dismember or impair, totally or in part, the territorial integrity or political unity of a sovereign and independent State whose Government represented the whole population, without distinction of any kind.

53. The best guarantee against the dangers of internal conflict and separatism was a truly democratic and representative political process, which ensured the genuine participation of all citizens, including those belonging to minorities. Respect for the rights of minorities, as defined in the relevant international human rights instruments, was also an essential element for building and maintaining cooperation between minorities and majorities.

54. Despite the recent resurgence of ethnic conflicts and minority problems, it should be recognized that, in many States, different ethnic, linguistic and religious groups were able to coexist in harmony. In that connection, his Government welcomed the efforts of Mr. Eide, independent Expert of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, to clarify many of the issues involving the relationship between minority rights and self-determination and to find constructive solutions to problems in that area.

55. The report of the Special Rapporteur on the question of the use of mercenaries (E/CN.4/1994/23) provided disturbing evidence of the continuing use of mercenaries in Africa and elsewhere, and the negative impact of their activities on human rights. The situation was particularly grave in Angola, and the international community must do everything possible to put an end to those practices.

56. Mr. KHOURY (Syrian Arab Republic) said that the occupation of the Palestinian territories had continued for a quarter of a century and that the human rights situation in those territories had consistently deteriorated. The twenty-fifth report of the Special Committee (A/48/557) described that deterioration, aggravated by Israel's repressive policies as the occupying Power, and noted that occupation was in itself a serious violation of human rights. The atmosphere of intimidation in the territories was due mainly to Israel's illegal policies of annexation and settlement since 1967.

57. He referred to the conclusions contained in the report (paras. 855 to 936) and, in particular, to paragraph 934 which cited Israeli violations of the Fourth Geneva Convention, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the resolutions of various United Nations organs and specialized agencies. Those conclusions clearly illustrated the very serious situation in the occupied territories, which should be condemned by the international community. The international community must also redouble its efforts to ensure that Israel's repressive practices ceased.

58. The oppressive practices and illegal measures had not stopped. A recent example was the creation of a new settlement on the Mount of Olives in Jerusalem, an attempt to Judaize that site. The Israeli Supreme Court had also placed the Sacred Mosque of Al-Aqsa under Jewish control, a grave violation of Security Council resolution 252 (1968).

59. The occupation of the Golan Heights in 1967 had led to the displacement of 500,000 persons. The confiscation of land had not ceased; by the end of 1990, 70 per cent of the land and all water sources had been seized. New settlements continued to be built, the latest being the "Mount Golan Colony". On 3 September 1993, the Israeli Minister for Agriculture had inaugurated agricultural installations in the Golan; that proved that Israel was determined to stay. It had been reported that the Israeli budget for 1994 would earmark an additional $7 million to enable 3,000 new settlers to be absorbed in the Golan by 1996.

60. On 19 January 1994, Israeli Prime Minister Yitzhak Rabin had proposed the holding of a referendum - among Israelis only - to decide whether to withdraw from the Golan; the Knesset had adopted that proposal. That raised doubts about Israeli's peaceful intentions; such a referendum would be contrary to international law and the United Nations Charter.

61. The people of the Golan continued to resist the occupation and to express their attachment to their country and their rights, as seen only recently in their mourning for the death of President Assad's son.

62. Peace could not be built upon occupied territories or violated rights. Syria, which would never give up an inch of its territory, was still pursuing the peace process, as evidenced by the recent meeting between President Assad and President Clinton.

63. It was to be hoped that the Commission would condemn Israel's continuing illegal practices and violations of human rights.

64. Ms. PARK (Canada) said her Government welcomed the historic Declaration of Principles signed by the Palestine Liberation Organization (PLO) and Israel, and paid tribute to the courage of its authors. Jordan had also concluded a common agenda with Israel. Despite the remaining uncertainties and obstacles, the parties were all but irrevocably committed to the peace process.

65. While commending Israel on its efforts to achieve peace, her delegation was disappointed in the human rights situation in the occupied territories. It was unfortunate that the breakthrough in the peace process had yet to be paralleled by progress in human rights.

66. To help end human rights violations in the occupied territories, her Government had pursued its practice of bringing the most blatant abuses directly to the attention of the Israeli authorities. Her delegation welcomed the spirit of cooperation shown by the Israeli military and civilian

authorities who, in some instances, had agreed to investigate and remedy disturbing situations. Her Government had also encouraged Palestinian authorities to extend the dialogue with the Government of Israel so as to include human rights.

67. Her delegation was pleased to note that the tone of the draft resolutions adopted on the subject by organs and organizations of the United Nations family had improved, although they did not always accurately reflect the reality or the spirit of the peace talks. It called upon the Commission to encourage the parties to drop their anachronistic, recriminatory rhetoric and adopt a new perspective that reflected the important progress made in the talks. The participation of Mr. Peres and Mr. Arafat in the current session should inspire the Commission's proceedings.

68. To date, the human rights record in Gaza and the West Bank had not met expectations. Her Government concurred with the critical observations of many human rights organizations, but also acknowledged that their work had been made possible in a large measure by Israel's democratic traditions that allowed them to investigate violations and situations relatively freely. Sad to say, the historic Washington accord had not yet led to an improvement in the daily lot of the Palestinians. That issue must be addressed urgently, before the disappointment of some and the hostility of others did lasting damage to the peace process.

69. The violence was not the work of one party alone. Israeli authorities were blamed for extrajudicial executions, "collective punishment", arbitrary detention and mistreatment of prisoners; the security forces had employed excessive force and too often had used live ammunition to deal with disturbances. Palestinian homes had been demolished and freedom of movement curtailed. But her delegation also deplored the terrorism, communal violence, extremist murders and executions of presumed "collaborators". In a word, the violence was escalating on both sides.

70. The repatriation of the Palestinians expelled in December 1992 was a positive development. Her delegation counted on Israel to end the practice of expulsions, which contravened the terms of the Fourth Geneva Convention. It also welcomed the release of some detained Palestinians, even though the fate of hundreds of other detainees remained uncertain.

71. Her Government sympathized with the Israeli authorities, who would continue to face the challenge of maintaining peace and security in Gaza and the West Bank until the Palestinian authorities were invested with such responsibility. Loss of life among Israelis and security forces continued to take its toll, and Israeli security forces had the additional responsibility of resolutely upholding the law when settlers defied it.

72. Her delegation was convinced that, through the application of the Declaration of Principles and the subsequent withdrawal of Israeli forces from Arab population centres, human rights problems would be addressed and the conditions of people in the occupied territories would improve. However, until Palestinian authorities took up their new responsibilities, the

international community must rely on the Fourth Geneva Convention and the obligations it placed on the occupying Power, and her delegation again called for a significant improvement in the human rights record in the occupied territories, in conformity with that instrument.

73. In the meantime, Canada would continue to support concrete confidence-building measures. With that in mind, it was cooperating with Palestinian authorities, especially in the areas of institution-building and democratic development. Her delegation commended Palestinian institutions and leaders, notably Al-Haqq (which was currently working on a Palestinian human rights commission) the Gaza Centre for Human Rights, the Palestine Human Rights Information Centre and all those who had dedicated themselves to building a new society based on due process.

74. Once peace had been established between Palestinians and Israelis and economic and democratic development in the territories had taken shape, peace should spread throughout the region. Peace and development, be it economic, social or democratic - and that included the promotion of human rights - were essential to real progress. The peace process provided an opportunity to create new relations between Israelis and Arabs, on the basis of a mutual respect for human rights. It was to be hoped that those relations would serve as a model throughout the region.

75. Her delegation thanked the Special Rapporteur for the report on his recent visit to the area and looked forward to resolutions that would reflect the new realities that were emerging.

76. Mr. MEGALOKONOMOS (Observer for Greece), speaking on behalf of the European Union, said that the Israeli-Palestinian agreement of 13 September 1993 constituted an historic step towards the establishment of peace in the region. The Union paid tribute to the Israeli and Palestinian leaders for their courage and vision and also welcomed the recent Jordanian-Israeli agreement on a common agenda.

77. It was the fervent hope of the European Union that, as the peace process developed, recourse to violence would cease and the human rights situation would improve significantly. Israelis and Palestinians alike would have an important role to play in promoting the observance of human rights in the changing context. The Union offered its continuing political support and was prepared to participate in further international arrangements in connection with the implementation of the agreement.

78. The European Union and its member States were the largest contributor of financial support for the peace process. The Union had provided a total of more than 70 million ECUs in aid to the occupied territories in 1993, and it would make available 500 million ECUs in assistance to the Palestinian people for the period 1994-1998, in addition to the assistance granted to the United Nations Relief and Works Agency (UNWRA) and on a bilateral basis.

79. The European Union remained committed to a comprehensive, just and lasting solution to the Arab-Israeli conflict based on Security Council resolutions 242 (1967) and 338 (1973), the full implementation of those resolutions being an integral part of the terms of reference of the peace process initiated at Madrid in 1991. It also reiterated the importance of Security Council resolution 425 (1978).

80. The European Union wished to recall the significance of the situation in Jerusalem, a holy city for three religions. It was of paramount importance to ensure the freedom of everyone to live there and to have access to the places of worship.

81. The European Union reaffirmed the importance that it attached to the full application of the Fourth Geneva Convention in the occupied territories, including East Jerusalem. It noted with satisfaction that the Special Rapporteur on the occupied territories had been able to visit the area and had had meetings with key parties in the region.

82. The European Union intended to take another initiative on an issue of major concern, the Israeli settlements.

83. Mr. DIENG (International Commission of Jurists (ICJ)) said that members of his organization had visited the occupied Arab territories for the first time on a two-week mission in December 1993 to study the situation of the civilian courts there. The group had been based in Jerusalem, but had also gone to visit the courts in the Palestinian towns of Ramallah, Nablus, Bethlehem, Jericho and Gaza.

84. For several months, Jerusalem had been closed to Palestinians, who were required to obtain permits to enter the city. The members of the mission had observed long queues of blue-and-green-plated Palestinian cars awaiting military checks, whereas the yellow-plated Israeli and settlers' cars had received preferential treatment.

85. The Palestinian towns and villages were very tense. Whereas Israeli settlers carried guns, the Palestinian civilian population was unarmed. In Gaza, soldiers had pointed their guns at the mission's car, ordering it to make a detour. Every night, a curfew was imposed in Gaza.

86. The ICJ had been concerned about the situation in the occupied territories for many years. The signing of the Israeli-Palestinian Declaration of Principles in September 1993 did not seem to have affected the situation on the ground.

87. They had been in Jericho on 13 December, the date set for the withdrawal of Israeli troops. Since troops had not been withdrawn, the population had been sceptical about the practical impact of the Declaration of Principles.

88. They had seen visible evidence of the failure of the Israeli Government to comply with the provisions of the Fourth Geneva Convention. In defiance of that instrument, Israeli settlements had mushroomed in the occupied territories, constituting a violation of international law and posing a real threat to peace.

89. The ICJ had found the civilian legal system in the occupied territories to be completely disrupted. Israeli military authorities had issued more than 1,390 military orders in the West Bank and over 1,110 in Gaza, most of them being illegal under international law. The existence and implementation of those orders had, more than any other factor, contributed to the distortion of the legal system in the occupied territories.

90. During their stay, the members of the mission had met Palestinian and Israeli lawyers, judges and human rights activists, who had painted a disturbing picture of the status of the judiciary and legal profession in the West Bank and Gaza. It had become clear that the effectiveness of the civilian courts there had been severely undermined by such practices as the transfer of jurisdiction from civilian to military courts; the conferring of concurrent jurisdiction on the military courts, with priority where the military authorities deemed fit; the appointing and supervising of judges by the Israeli military officer in charge of the judiciary in the West Bank; the removal of pending files from civilian courts and their closure; and the pardoning of certain prisoners after sentencing, probably in return for their cooperation.

91. It was also difficult for the courts to execute their decisions because of the absence of a police force since the beginning of the intifada and because of the lack of staff and facilities for judges. Access to justice was also restricted by the disproportionate increase in court fees and the impediments placed by the military upon physical access to the courts. For instance, during the ICJ visit to Bethlehem, it had found that the military controlled the gate to the courthouse, apparently because some Israeli officials worked within the compound. That, however, restricted access to justice.

92. The absence of a Court of Cassation since the beginning of the occupation and of a free and independent Palestinian bar association added to the system's shortcomings. Towards the end of the mission, the ICJ had met Israeli officials to convey to them its concerns.

93. The population of the West Bank and Gaza hoped that the incoming Palestinian authority would respect human rights. Sharing that sentiment, the ICJ had called upon the Palestinian authorities to incorporate international human rights standards into the new Palestinian legal system.

94. The members of the mission had also been concerned that the consultation with the legal profession in the occupied territories about the development of the future Palestinian legal system had been inadequate. A draft constitution had been written elsewhere, without a proper discussion with the lawyers and judges of the occupied territories. In its recommendations, the ICJ had called upon the Palestinian authorities to set up without delay a committee of Palestinian judges and lawyers from the West Bank and Gaza to study the various laws, and urged the widest possible consultation of all sectors of society, without discrimination, at every stage when drafting Palestinian legal instruments.

95. Palestinian human rights organizations had been concerned about being allowed to function without interference from the authorities. The ICJ had thus called upon both the Israeli and the Palestinian authorities to respect the independent functioning of those critical institutions.

96. The findings of the ICJ mission demonstrated that the situation in the occupied territories demanded continued close monitoring and reporting.

97. Mr. LAGHMARI (Observer for Morocco) said that the Commission was holding its fiftieth session at a significant point in history. It would be taking into consideration the recommendations of the World Conference on Human Rights as well as recent political developments, all of which would certainly have a decisive impact on human rights throughout the world.

98. He welcomed the first steps towards a just and lasting solution to the Israeli-Palestinian conflict. The signing of the Washington agreement in September 1993, the fruit of several years of efforts by the various parties, and the succeeding declarations made at Fez and Casablanca were positive signs.

99. Nevertheless, over the decades, the Israeli occupation authorities had committed illegal acts, including the violation of human rights, a fact which had complicated the situation. Those acts had been confirmed in various reports submitted by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories. Moreover, Israel had failed to take any steps to cease its human rights violations in the occupied territories, in spite of the many United Nations resolutions urging it to respect international humanitarian law and its obligations under the Charter of the United Nations.

100. For more than 20 years, Israel had refused to allow the Special Committee to carry out its investigations in the occupied territories. The Committee had, nevertheless, been able to gather information and testimony, in part from the bodies and specialized agencies of the United Nations system, verifying that human rights violations had been taking place in the occupied territories. In its most recent report (A/48/557), the Committee had concluded that the situation of Palestinians and other Arabs in the occupied territories was still a source of great concern.

101. In response to the worsening of the human rights situation in the occupied Arab territories, the Commission on Human Rights had adopted resolution 1993/2, by which it had appointed a special rapporteur to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in the Palestinian territories occupied by Israel.

102. In that connection, he noted with satisfaction that Israel had, for the first time, authorized a visit to the occupied territories, which was a step towards redressing the human rights situation and establishing peace in the region.

103. His Government had hoped that, following the signing of the Declaration of Principles in Washington in September 1993, a new political situation would emerge, based on respect for the obligations set forth in the relevant United Nations resolutions. Israel had not, however, honoured the date agreed upon for its withdrawal from the Jericho area and the Gaza Strip. Furthermore, only a few days after the Declaration had been signed, the Israeli Supreme Court had made a ruling placing an area including the Al-Aqsa Mosque under Jewish control, an act contrary to the Declaration of Principles and to the Security Council resolutions under which any measure modifying the status of Jerusalem or its holy sites was null and void.

104. The positive steps Israel had taken, including measures to permit the return of deported Palestinians, had to be weighed against the persistence of its repressive practices, including killings, confiscation of property and the refusal to grant the Arab population its fundamental rights.

105. The Commission must continue to monitor the situation in the occupied Arab territories until the causes of all human rights violations had been eliminated and a comprehensive and just peace achieved, thus at long last satisfying the expectations of all those in the region who aspired to peace, well-being and respect for human rights.

The meeting rose at 12.15 p.m.